IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.48483 of 2008

FIROZ KHAN .... PETITIONER

Versus

THE STATE OF BIHAR .... OPP. PARTY

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2. 5.12.2008 Heard Md. Sharfuddin, Advocate for the petitioner and Sri D. Mehta, APP for the State.

A house was searched and from drum kept into the Aangan of the house17 packets of Heroin were recovered, which ultimately weighed 70 grams.

The contention is that the FIR itself indicates that the petitioner has four more brothers and the house is joint and as soon as the police reached there, other brothers fled away and the petitioner remained sitting there. It is further contended that the petitioner did not object to be house being searched by the police in absence of Executive Magistrate or a Gazetted Officer. It was further contended that showed the bonafidey of the petitioner about having no knowledge in respect of the storage of contraband article in the house. In fact, the petitioner is a driver and he come all on a sudden to his house when the police arrived and it made a search and recovered the article.

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It is very difficult to come to a definite conclusion

about the knowledge of the petitioner especially when the manner of concealment or storage of the recovered heroin is considered. It was kept in a drum and the material was wrapped in polythene packet. It may be within the knowledge of the petitioner. The manner of recovery and other things has to be judged by the trial court when he has an occasion to examine the witnesses including the Investigating Officer.

Considering the recovery of about 70 grams of heroin, the contention is that it may not be covered by the commercial quantity appears no substance as the case could very well be covered by the Section of the offence, in which it has been registered.

The petition is dismissed. However, the petitioner may renew his prayer for bail after examination of the informant in the case in the trial court.

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**DKS/** **(Dharnidhar Jha, J.)**